

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF PARI-MUTUEL WAGERING

DEPARTMENT OF BUSINESS
AND PROFESSIONAL REGULATION,
DIVISION OF PARI-MUTUEL WAGERING,

Petitioner,
v.

DBPR Case No.: 2021-026196

JOHN PAUL ODE,
Respondent.

_____ /

FINAL ORDER

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (“Division”), hereby enters this Final Order for the above styled matter. On December 15, 2021, Alison A. Parker, Hearing Officer for the Department, issued the Recommended Order in this matter. The Recommended Order is attached to the Final Order and incorporated herein by reference.

FINDINGS OF FACT

The Findings of Fact contained in the Recommended Order are hereby adopted as the Findings of Fact of the Division.

CONCLUSIONS OF LAW

The Conclusions of Law contained in the Recommended Order are hereby adopted as the Conclusions of Law of the Division.

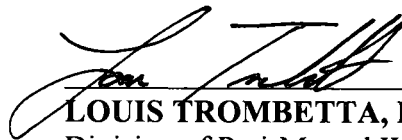
ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law adopted from the Recommended Order of the Department's Informal Hearing, it is hereby ORDERED that:

1) Respondent is hereby **PERMANENTLY EXCLUDED** from all pari-mutuel facilities within the State of Florida.

2) This Final Order shall become effective on the date of filing with the Agency Clerk of the Department of Business and Professional Regulation.

This Final Order in DBPR Case Number 2021-026196 is DONE AND ORDERED this 27 day of January, 2022, in Tallahassee, Florida.



LOUIS TROMBETTA, DIRECTOR
Division of Pari-Mutuel Wagering
Department of Business and Professional Regulation
2601 Blair Stone Road
Tallahassee, Florida 32399-1035

NOTICE OF RIGHT TO APPEAL UNLESS WAIVED

A party who is adversely affected by this Final Order is entitled to judicial review pursuant to Section 120.68, Florida Statutes. Review Proceedings are governed by Rules 9.110 and 9.190, Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a Notice of Appeal with the Department of Business and Professional Regulation, Attn: Ronda L. Bryan, Agency Clerk, 2601 Blair Stone Road, Tallahassee, Florida 32399 (agc.filing@myfloridalicense.com) and a second copy, accompanied by filing fees prescribed by law, with the District Court of Appeal, First District, or with the District Court of Appeal in the Florida Appellate District where the Party Resides. The Notice of Appeal must be filed within thirty (30) Days of Rendition of the Order to be reviewed.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY this 8th day of February 2022, that a true and correct copy of the foregoing Final Order has been sent via U.S. Mail to:

John Paul Ode
35303 South West 180th Avenue, Lot 390
Homestead, Florida 33034

Brandon M. Nichols

AGENCY CLERK'S OFFICE
Department of Business and Professional Regulation

CC: Ebonie Lanier

FILED
Department of Business and Professional Regulation
Deputy Agency Clerk
CLERK **Evette Lawson-Proctor**
Date **12/16/2021**
File #

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF PARI-MUTUEL WAGERING

DEPARTMENT OF BUSINESS
AND PROFESSIONAL REGULATION,
DIVISION OF PARI-MUTUEL WAGERING,

Petitioner,

DBPR Case No.: 2021-026196

v.

JOHN PAUL ODE,

Respondent.

_____ /

HEARING OFFICER’S RECOMMENDED ORDER

THIS MATTER came before Alison A. Parker, designated Hearing Officer for the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering on November 10, 2021, in Tallahassee, Florida, in accordance with the provisions of sections 120.569 and 120.57(2), Florida Statutes, for consideration of the Division’s Administrative Complaint filed against John Paul Ode (“Respondent”), in DBPR Case Number 2021-026196 (“Administrative Complaint”). The Division of Pari-Mutuel Wagering (“Division”) was represented by Emily A. Leiva, Assistant General Counsel. Respondent appeared *pro se* and the hearing was held by video conference call. Both sides were permitted to present witnesses, proffer items into evidence, and otherwise fully participate in the hearing.

PROCEDURAL HISTORY

1. On July 20, 2021, the Division filed an Administrative Complaint against Respondent alleging that on May 12, 2021, Respondent was permanently excluded from South Florida Racing Association (“Hialeah Park Racing & Casino”) and that he is subject to exclusion from all licensed pari-mutuel facilities in the State of Florida.

2. On September 7, 2021, Respondent requested an informal hearing pursuant to section 120.57(2), Florida Statutes.

3. At the informal hearing on November 10, 2021, the Division presented the issues raised in its Administrative Complaint. The Division's motion to accept the Findings of Fact in the Administrative Complaint as the undisputed facts in the case was granted. Additionally, the Division successfully moved the investigative report into the record.

4. During the informal hearing, Respondent testified on a variety of topics:
- a. Respondent admitted to being excluded from Hialeah Park Racing & Casino on May 12, 2021;
 - b. Respondent further testified that he recalled the incident that lead to his permanent exclusion at the Hialeah Park Racing & Casino poker table, but stated he no dishonorable or malicious intentions;
 - c. Respondent admitted that the act that occurred at the poker table would constitute a violation of the cardroom rules for that particular game; and
 - d. Respondent further explained that he has not returned to Hialeah Park Racing & Casino since the permanent exclusion.

FINDINGS OF FACT

5. At all times material, Respondent was a patron at Hialeah Park Racing & Casino.

6. On May 12, 2021, Respondent was ejected and permanently excluded from Hialeah Park Racing & Casino.

CONCLUSIONS OF LAW

7. The Hearing Officer has jurisdiction to hear this case pursuant to section 120.57(2), Florida Statutes.

8. At all times material, Hialeah Park Racing & Casino was a facility operated by a permitholder authorized to conduct pari-mutuel wagering, cardroom, and slot machine operations in the State of Florida.

9. Section 550.0251(6), Florida Statutes, provides in relevant part, with emphasis added:

In addition to the power to exclude certain persons from any pari-mutuel facility in the state, the division may exclude any person from any and all pari-mutuel facilities in this state for conduct that would constitute, if the person were a licensee, a violation of this chapter or the rules of the division. The division may exclude from any pari-mutuel facility within this state any person who has been ejected from a pari-mutuel facility in this state or who has been excluded from any pari-mutuel facility in another state by the governmental department, agency, commission, or authority exercising regulatory jurisdiction over pari-mutuel facilities in such other state.

10. Respondent is subject to exclusion from all licensed pari-mutuel facilities in the State of Florida based on his ejection and permanent exclusion from Hialeah Park Racing & Casino on May 12, 2021. *See* § 550.0251(6), Fla. Stat.

11. Respondent's testimony neither mitigates the fact that Respondent was permanently excluded from Hialeah Park Racing & Casino, nor precludes the Division from permanently excluding Respondent from all licensed pari-mutuel facilities in the State of Florida. *See Id.*

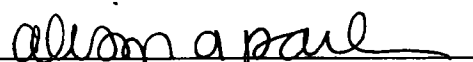
12. The Division is not required to be the arbiter of the underlying allegations that led to a patron's exclusion. Under the simple statement of the law, a patron's exclusion from a licensed pari-mutuel facility is enough to trigger a wholesale exclusion of the patron from all pari-mutuel facilities in the State of Florida.

13. There is competent substantial evidence to support the conclusions of law.

RECOMMENDATION

Based upon the Findings of Fact and Conclusions of Law, it is hereby RECOMMENDED that the Division issue a Final Order excluding Respondent from all pari-mutuel facilities in the State of Florida.

Respectfully submitted this 15th day of December 2021.


Alison A. Parker, Hearing Officer
Department of Business and
Professional Regulation
2601 Blair Stone Road
Tallahassee, FL 32399-2202

CERTIFICATE OF SERVICE

I hereby certify this 16 day of December 2021 that a true copy of the foregoing Hearing Officer's Recommended Order has been provided by mail to:

John Paul Ode
35303 South West 180th Avenue
Florida City, Florida 33034


AGENCY CLERK'S OFFICE

FILED	
Department of Business and Professional Regulation AGENCY CLERK	
CLERK	Ronda L. Bryan
Date	7/20/2021
File #	

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF PARI-MUTUEL WAGERING

DEPARTMENT OF BUSINESS
AND PROFESSIONAL REGULATION,
DIVISION OF PARI-MUTUEL WAGERING,

Petitioner,

DBPR Case No.: 2021-026196

v.

JOHN PAUL ODE,

Respondent.

_____ /

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering ("Petitioner"), files this Administrative Complaint against John Paul Ode ("Respondent"), and alleges:

1. Petitioner is the state agency charged with regulating pari-mutuel wagering, slot machines, and cardroom operations pursuant to Chapters 550, 551, and 849, Florida Statutes.
2. At all times material hereto, Respondent's address was reported as 35303 S.W. 180 Avenue, Lot 390, Florida City, Florida 33034.
3. At all times material hereto, South Florida Racing Association, LLC ("Hialeah Park") was a facility operated by a permit holder authorized to conduct pari-mutuel wagering, slot machines, and cardroom operations in the State of Florida.
4. On or about May 12, 2021, Respondent was a patron of Hialeah Park.
5. On or about May 12, 2021, Respondent was ejected and permanently excluded from Hialeah Park.

6. Section 550.0251(6), Florida Statutes, provides in relevant part:

In addition to the power to exclude certain persons from any pari-mutuel facility in the state, the division may exclude any person from any and all pari-mutuel facilities in this state for conduct that would constitute, if the person were a licensee, a violation of this chapter or the rules of the division. The division may exclude from any pari-mutuel facility within this state any person who has been ejected from a pari-mutuel facility in this state or who has been excluded from any pari-mutuel facility in another state by the governmental department, agency, commission, or authority exercising regulatory jurisdiction over pari-mutuel facilities in such other state.

(Emphasis supplied).

7. Section 551.112, Florida Statutes, provides:

In addition to the power to exclude certain persons from any facility of a slot machine licensee in this state, the division may exclude any person from any facility of a slot machine licensee in this state for conduct that would constitute, if the person were a licensee, a violation of this chapter or the rules of the division. The division may exclude from any facility of a slot machine licensee any person who has been ejected from a facility of a slot machine licensee in this state or who has been excluded from any facility of a slot machine licensee or gaming facility in another state by the governmental department, agency, commission, or authority exercising regulatory jurisdiction over the gaming in such other state. This section does not abrogate the common law right of a slot machine licensee to exclude a patron absolutely in this state.

(Emphasis supplied).

8. Based on the foregoing, Respondent violated Sections 550.0251(6) and 551.112, Florida Statutes, and is subject to exclusion from all licensed pari-mutuel wagering facilities in the State of Florida and any facility of a slot machine licensee in the State of Florida based on his exclusion from Hialeah Park on or about May 12, 2021.

WHEREFORE, Petitioner respectfully requests the Division Director enter an Order excluding Respondent from all licensed pari-mutuel wagering facilities in the State of Florida and any facility of a slot machine licensee in the State of Florida, along with any other remedy provided by Chapters 550 and 551, Florida Statutes, and/or the rules promulgated thereunder.

This Administrative Complaint for DBPR Case Number 2021-026196 is signed this 20th day of July 2021.

/s/ Emily A. Leiva

Emily A. Leiva
Assistant General Counsel
Florida Bar Number: 1025200
Department of Business and Professional Regulation
Office of the General Counsel
Division of Pari-Mutuel Wagering
2601 Blair Stone Road
Tallahassee, Florida 32399-2202
Telephone: (850) 717-1783
Facsimile: (850) 921-1311
Primary: Emily.Leiva@MyFloridaLicense.com
Secondary: Ebonie.Lanier@MyFloridaLicense.com

NOTICE OF RIGHTS TO REQUEST A HEARING

Pursuant to Sections 120.569 and 120.57, Florida Statutes, you have the right to request a hearing to challenge the charges contained in this Administrative Complaint. If you choose to request a hearing, you will have the right to be represented by counsel, or other qualified representative, to present evidence and argument, to call and cross-examine witnesses, and to have subpoenas and subpoenas duces tecum issued on your behalf.

Any request for an administrative proceeding to challenge or contest the charges contained in this Administrative Complaint must conform to Rule 28-106.2015, Florida Administrative Code. Pursuant to Rule 28-106.111, Florida Administrative Code, you must request a hearing within 21 days from receipt of this Notice, or you will waive your right to request a hearing.

Mediation under Section 120.573, Florida Statutes, is not available to resolve this Administrative Complaint.